IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WA.No. 2728 of 2007

AGAINST THE ORDER IN RP.NO.369/07 DATED 6-6-2007 IN O.P.NO..10661/2002

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APPELLANT: REVIEW PETITIONER/PETITIONER:

CHERIYAN.J.PUTHIYADAM,
S/O.JOHN, AGED 74 YEARS, PUTHIYADAM,
ANTHINAD, LALAM VILLAGE, PALAI,
KOTTAYAM DISTRICT.

BY ADV. SRI.C.K.ABDUL RAHIM
SRI.BABU JOSEPH KURUVATHAZHA

RESPONDENTS: RESPONDENTS/RESPONDENTS:

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1. STATE OF KERALA,
REP. BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE RECOVERY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
KOTTAYAM.

3. TAHASILDAR,
MEENACHIL TALUK,
MEENACHIL,
KOTTAYAM DISTRICT.

4. VILLAGE OFFICER,
KONDUR VILLAGE,
MEENACHIL TALUK,
KOTTAYAM DISTRICT.

5. THE SOUTH INDIAN BANK,
REP.BY ITS BRANCH MANAGER,
KANJIRAPPILLY BRANCH,
KOTTAYAM DISTRICT.

BY GOVERNMENT PLEADER SRI.M.P.SREEKRISHNAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

W.A.No.2728 of 2007

Dated, this the 21st day of November, 2007

JUDGMENT

H.L.Dattu, C.J.

In the Original Petition filed, the petitioner requested this Court to direct respondents 2 to 4 to accept the land tax paid by the petitioner for the property covered by Exts.P1 to P4 and to change the Thandaper in favour of him. The other relief sought for was to direct the 4th respondent to issue possession certificate for the property covered by Exts.P1 to P4 to the petitioner.

(2). The respondents, after service of notice of the Original Petition have filed counter affidavit. In the counter affidavit they have stated that the State Government is the owner of the property in question having purchased the property in revenue sale held on 11-2-1992 and confirmed on 3-11-1994.

(3. Since there is dispute with regard to the title to the property in question, the learned Single Judge has only stated in his order, that, since disputed facts are involved, writ is not the remedy and the petitioner has to establish his right before appropriate Civil Forum. Aggrieved by the order so passed by the learned Judge, the petitioner in the Original Petition has filed this writ appeal.

(4). The learned counsel appearing for the appellant would submit that the learned Judge was not justified in directing the petitioner to

establish his title to the property in a properly constituted civil suit. Therefore, requires us to modify that portion of the order passed by the learned Judge.

(5). If we modify that portion of the order passed by the learned Judge, which would, according to the petitioner/appellant would affect his interest, it would not cause any prejudice to the other side. Therefore, while rejecting the appeal, we modify the orders passed by the learned Judge only to the extent that the petitioner/appellant may establish his rights in appropriate Forum by following appropriate proceedings.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

MS